

August 19, 2019

Mr. Ben Gary
1319 Stevens Avenue
Arbutus, MD 21227

Re: Bell and Lorraine Estate at 7505 Woodland Drive
Forest Conservation Variance
Tracking #01-19-3058

Dear Mr. Gary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on August 5, 2019. If granted, the variance would allow removal of one (1) specimen tree in order to construct a single-family dwelling on the subject property. The 1.0-acre property is fully forested and currently unimproved. A Forest Conservation Plan (FCP) for the Bell Property Minor Subdivision, of which the subject property is lot 2, was approved by EIR on May 29, 2012. The specimen tree to be removed is a 33-inch diameter-at-breast-height (DBH) black oak in poor condition and is shown as Tree H on that FCP. It is one of 11 specimen trees that were proposed for retention. The four other specimen trees existing on lot 2 will not be impacted during construction.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to construct a new single-family dwelling on the lot. While the specimen tree is located outside of the area where the house is to be constructed, it is currently leaning in the direction of the proposed home location and is in poor condition, threatening any future development on this property as well as that on neighboring sites. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general

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conditions of the neighborhood. The petitioner's plight is due to the tree's poor condition and its location relative to the proposed location of the dwelling rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of partially wooded, low density single-family dwellings. Given that no increase in housing density would result from this variance, and four other specimen trees as well as a portion of the Forest Buffer & Forest Conservation Easement (FB/FCE) on the minor subdivision will continue to exist on lot 2, we find that granting this variance will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any streams, wetlands, floodplains, or associated buffers. Moreover, stormwater management will be designed in accordance with current regulations that emphasize water quality management. Moreover, proper erosion and sediment control devices will be utilized. As such, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although one specimen tree is to be removed, it is in poor condition will likely soon die. Furthermore, four other healthy specimen trees will remain on the lot. In addition, a portion of the aforementioned FB/FCE has been recorded on the property contributing to the retention of the break-even point for the entire three-lot minor subdivision. Therefore, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with no conditions given the poor

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condition of the 33-inch DBH black oak and its location within forest. However, please include the following note on all subsequent plans for this development project:

“A variance was granted on August 19, 2019 by Baltimore County Dept. of Environmental Protection and Sustainability to remove one specimen tree in poor condition. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met, including the retention of four other specimen trees onsite and compliance with the Declaration of Protective Covenants governing the existing Forest Buffer & Forest Conservation Easement onsite.”

This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County's Forest Conservation Law. It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/lbe

- c. The Lorraine Bell Revocable Living Trust, Owner
Ms. Marian Honeczy, Maryland Department of Natural Resources

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I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name